

# EXHIBIT B

---

---

**TRUST INDENTURE**

**between**

**JEFFERSON COUNTY, ALABAMA**

**and**

**AMSOUTH BANK OF ALABAMA**

**Dated as of February 1, 1997**

---

**Relating to**

**JEFFERSON COUNTY, ALABAMA**

**\$211,040,000**

**Sewer Revenue Refunding Warrants**

**Series 1997-A**

**\$48,020,000**

**Taxable Sewer Revenue Refunding Warrants**

**Series 1997-B**

**\$52,880,000**

**Taxable Sewer Revenue Refunding Warrants**

**Series 1997-C**

---

---

## **TABLE OF CONTENTS\***

to  
TRUST INDENTURE  
between  
JEFFERSON COUNTY, ALABAMA  
and  
AMSOUTH BANK OF ALABAMA

---

---

	<u>Page</u>
Parties .....	1
Recitals .....	1

### **ARTICLE I**

#### **DEFINITIONS AND USE OF PHRASES**

Section 1.1	Definitions .....	1
Section 1.2	Use of Phrases .....	14

### **ARTICLE II**

#### **GRANTING CLAUSES**

Section 2.1	Granting Clauses .....	14
Section 2.2	Parity Securities Not General Obligations .....	15

### **ARTICLE III**

#### **ISSUANCE OF PARITY SECURITIES IN SERIES**

Section 3.1	Issuance of Parity Securities in Series .....	16
Section 3.2	Dates and Places of Payment of Parity Securities .....	16

---

\*This Table of Contents appears here for convenience only and should not be considered a part of this Trust Indenture.

Section 3.3	Form of Parity Securities, Etc .....	17
-------------	--------------------------------------	----

#### **ARTICLE IV**

##### **EXECUTION AND AUTHENTICATION OF THE PARITY SECURITIES**

Section 4.1	Execution of Parity Securities .....	17
Section 4.2	Authentication Certificate of the Paying Agent .....	17
Section 4.3	Replacement of Mutilated, Lost, Stolen or Destroyed Parity Securities .....	18

#### **ARTICLE V**

##### **REGISTRATION, TRANSFERS AND EXCHANGES OF THE PARITY SECURITIES**

Section 5.1	Book-Entry Procedures Applicable to Series 1997 Warrants .....	18
Section 5.2	Registration and Transfer of Parity Securities .....	20
Section 5.3	Exchange of Parity Securities .....	21
Section 5.4	Persons Deemed Owners of Parity Securities .....	22
Section 5.5	Expenses of Transfer and Exchange .....	22

#### **ARTICLE VI**

##### **GENERAL PROVISIONS RESPECTING REDEMPTION OF PARITY SECURITIES**

Section 6.1	Manner of Effecting Redemption of Parity Securities .....	22
Section 6.2	Presentation of Parity Securities for Redemption; Parity Securities Called for Redemption to Cease to Bear Interest .....	24
Section 6.3	Pro Rata Redemption of Parity Securities of Different Series Not Required .....	24

#### **ARTICLE VII**

##### **THE SERIES 1997-A WARRANTS**

Section 7.1	Authorization and Description of the Series 1997-A Warrants and Places of Payment .....	25
Section 7.2	Optional Redemption of Series 1997-A Warrants .....	25
Section 7.3	Scheduled Mandatory Redemption of Series 1997-A Warrants .....	26
Section 7.4	Purchase of Series 1997-A Warrants for Retirement .....	27
Section 7.5	Special Provisions Respecting Partial Redemption of Series 1997-A Warrants .....	28
Section 7.6	Form of Series 1997-A Warrants .....	28
Section 7.7	Execution and Delivery of Series 1997-A Warrants .....	34
Section 7.8	Application of Proceeds from the Sale of Series 1997-A Warrants .....	35

## ARTICLE VIII

### THE SERIES 1997-B WARRANTS

Section 8.1	Authorization and Description of the Series 1997-B Warrants and Places of Payment .....	35
Section 8.2	Purchase of Series 1997-B Warrants for Retirement .....	36
Section 8.3	Form of Series 1997-B Warrants .....	36
Section 8.4	Execution and Delivery of Series 1997-B Warrants .....	41
Section 8.5	Application of Proceeds from the Sale of Series 1997-B Warrants .....	41

## ARTICLE IX

### THE SERIES 1997-C WARRANTS

Section 9.1	Authorization and Description of the Series 1997-C Warrants and Places of Payment .....	42
Section 9.2	Optional Redemption of Series 1997-C Warrants .....	42
Section 9.3	Scheduled Mandatory Redemption of Series 1997-C Warrants .....	43
Section 9.4	Purchase of Series 1997-C Warrants for Retirement .....	43
Section 9.5	Special Provisions Respecting Partial Redemption of Series 1997-C Warrants .....	44
Section 9.6	Form of Series 1997-C Warrants .....	44
Section 9.7	Execution and Delivery of Series 1997-C Warrants .....	49

## **ARTICLE X**

### **ADDITIONAL PARITY SECURITIES**

Section 10.1	Additional Parity Securities—In General .....	50
Section 10.2	Conditions Precedent to Issuance of Additional Parity Securities .....	50
Section 10.3	Subordinate Indebtedness Permitted .....	55
Section 10.4	Related Obligations .....	55

## **ARTICLE XI**

### **APPLICATION OF SYSTEM REVENUES AND ESTABLISHMENT OF SPECIAL FUNDS**

Section 11.1	Revenue Account .....	56
Section 11.2	Debt Service Fund .....	57
Section 11.3	Reserve Fund .....	60
Section 11.4	Rate Stabilization Fund .....	62
Section 11.5	Depreciation Fund .....	62
Section 11.6	Surplus Revenues .....	63
Section 11.7	Redemption Fund .....	63
Section 11.8	Investment of Indenture Fund Moneys .....	63
Section 11.9	Commingling of Moneys in Separate Indenture Funds .....	64
Section 11.10	Valuation of Indenture Funds .....	65
Section 11.11	Reserve Fund Surety Requirements .....	65
Section 11.12	Issuance Cost Account .....	68

## **ARTICLE XII**

### **PARTICULAR COVENANTS AND AGREEMENTS OF THE COUNTY; RELEASE OF PORTION OF THE SYSTEM**

Section 12.1	Budget for the System .....	68
Section 12.2	Maintenance of Books and Records; Annual Audits .....	69
Section 12.3	Restrictions as to Free Service .....	69
Section 12.4	Discontinuance of Service on Non-Payment of Bills and Charges .....	70

Section 12.5	Maintenance of Rates .....	70
Section 12.6	Continued Operation of the System; Transfer of the System .....	71
Section 12.7	Warranties and Representations Concerning Title to the System .....	72
Section 12.8	System to be Kept Free of Prior Liens .....	73
Section 12.9	Priority of Pledge .....	73
Section 12.10	Sale or Disposition of Personal Property .....	73
Section 12.11	Sale or Disposition of Portions of the System .....	74
Section 12.12	Insurance with Respect to the System .....	74
Section 12.13	Damage and Destruction Provisions .....	75
Section 12.14	Fidelity Bonds .....	77
Section 12.15	Tax Covenants .....	77
Section 12.16	Compliance with Requirements of Law .....	77
Section 12.17	Levy of Sewer Tax .....	78
Section 12.18	Payment of Parity Securities .....	78

## ARTICLE XIII

### EVENTS OF DEFAULT AND REMEDIES OF TRUSTEE AND PARITY SECURITYHOLDERS

Section 13.1	Events of Default Defined .....	78
Section 13.2	Remedies on Default .....	79
Section 13.3	Application of Moneys Collected .....	80
Section 13.4	Parity Securityholders Need Not be Joined in Actions .....	81
Section 13.5	Rights of the Parity Securityholders to Direct Proceedings .....	82
Section 13.6	Limitation on Suits by Parity Securityholders .....	82
Section 13.7	Remedies Cumulative .....	83
Section 13.8	Delay or Omission Not a Waiver .....	83
Section 13.9	Remedies Subject to Applicable Law .....	83
Section 13.10	Waivers of Past Defaults Under the Indenture .....	83

## ARTICLE XIV

### THE TRUSTEE

Section 14.1	Certain Duties and Responsibilities .....	84
Section 14.2	Notice of Defaults .....	85
Section 14.3	Certain Rights of the Trustee .....	85
Section 14.4	Trustee not Responsible for Certain Matters Respecting Parity Securities or Security Therefor .....	86

Section 14.5	Trustee May Hold Parity Securities .....	86
Section 14.6	Right of the Trustee to Perform Certain Acts on Failure of the County .....	86
Section 14.7	Compensation of the Trustee; Lien Therefor .....	87
Section 14.8	Resignation and Removal of the Trustee; Appointment of Successor .....	87
Section 14.9	Acceptance of Appointment by Successor Trustee .....	88
Section 14.10	Merger or Consolidation of the Trustee .....	88
Section 14.11	Paying Agents .....	89

## **ARTICLE XV**

### **AMENDMENTS AND SUPPLEMENTS TO THE INDENTURE**

Section 15.1	Supplemental Indentures Without Consent of Parity Securityholders .....	90
Section 15.2	Supplemental Indentures With Consent of Parity Securityholders .....	91
Section 15.3	Discretion of the Trustee .....	92
Section 15.4	Effect of Supplemental Indentures .....	92

## **ARTICLE XVI**

### **PAYMENT AND CANCELLATION OF THE PARITY SECURITIES AND SATISFACTION OF THE INDENTURE**

Section 16.1	Satisfaction of Indenture .....	93
Section 16.2	Destruction of Surrendered Parity Securities .....	94
Section 16.3	Release of Funds Upon Payment of Parity Securities .....	95

## **ARTICLE XVII**

### **PROVISIONS CONCERNING THE INSURANCE POLICY**

Section 17.1	Payments Under the Insurance Policy .....	95
Section 17.2	Information to be Provided to the Bond Insurer .....	96



Section 17.3	Miscellaneous Special Provisions Respecting the Bond Insurer and the Bond Insurance Policy .....	97
--------------	---	----

## ARTICLE XVIII

### MISCELLANEOUS PROVISIONS

Section 18.1	Disclaimer of General Liability .....	99
Section 18.2	Counterparts .....	99
Section 18.3	Notices .....	99
Section 18.4	Retention of Moneys for Payment of Parity Securities .....	100
Section 18.5	Payments Not Due on Business Day .....	100
Section 18.6	Form of Requests, etc., by Parity Securityholders .....	100
Section 18.7	Notice to Rating Agencies .....	100
Section 18.8	Severability .....	101
Section 18.9	Article and Section Captions .....	101
Section 18.10	Indenture Governed by Alabama Law .....	101
Section 18.11	Binding Effect .....	101
Testimonium	.....	102
Signatures	.....	102
Acknowledgments	.....	103

**TRUST INDENTURE** between **JEFFERSON COUNTY, ALABAMA**, a political subdivision of the State of Alabama, party of the first part (herein called the "County"), and **AMSOUTH BANK OF ALABAMA**, an Alabama banking corporation having its principal office in the City of Birmingham, Alabama, party of the second part (herein called the "Trustee");

## **RECITALS**

The party of the first part makes the following recitals of facts as the basis for the undertaking following: it is a political subdivision of the State of Alabama; by proper official action it has duly authorized the issuance of the Series 1997 Warrants and Series 1997-C Warrants hereinafter referred to; and to secure payment of the principal of and the interest and premium (if any) on said Series 1997 Warrants and Series 1997-C Warrants and all additional securities that may be issued hereunder, it has by proper official action duly authorized the execution and delivery of this Indenture.

## **NOW, THEREFORE, THIS INDENTURE**

## **WITNESSETH:**

For the aforesaid purpose and in consideration of the respective agreements herein contained, it is hereby agreed between the parties signatory hereto and the holders of all Parity Securities issued hereunder (the holders of the said Parity Securities evidencing their consent hereto by their acceptance of the said Parity Securities and the parties signatory hereto evidencing their consent hereto by their execution hereof), each with each of the others, as follows (provided, that in the performance of any of the agreements of the party of the first part herein contained, any obligation it may thereby incur for the payment of money shall not be a general debt on its part but shall be payable solely from the sources of payment hereinafter specified):

## **ARTICLE I**

### **DEFINITIONS AND USE OF PHRASES**

Section 1.1 **Definitions.** Unless the context clearly indicates a different meaning, the following words and phrases, as used herein, shall have the following respective meanings:

"**Act**" means the statutes codified as Chapter 28 of Title 11 of the Code of Alabama 1975, as amended and supplemented and at the time in force and effect.

**"Additional Parity Securities"** means those of the Parity Securities (whether consisting of warrants, bonds, notes or other forms of indebtedness) issued subsequent to the issuance of the Series 1997 Warrants and Series 1997-C Warrants pursuant to the provisions of Article X hereof.

**"Additional 1997 Parity Securities"** means a series of Parity Securities to be issued subsequent to the issuance of the Series 1997 Warrants and Series 1997-C Warrants (but no later than April 30, 1997) in a principal amount that shall not exceed \$350,000,000.

**"Authority"** means the Alabama Water Pollution Control Authority, an Alabama public corporation.

**"Authority Trustee Prime Rate"** means the rate of interest established (whether or not charged) from time to time by Compass Bank in Birmingham, Alabama, as its general reference rate of interest, after taking into account such factors as Compass Bank may from time to time deem appropriate in its sole discretion (it being understood, however, that Compass Bank may from time to time make various loans at rates of interest having no relationship to such general reference rate of interest).

**"Authorized County Representative"** means the person or persons at the time designated as such by written certificate furnished to the Trustee, containing the specimen signature or signatures of such person or persons and signed on behalf of the County by a member of the Governing Body.

**"Bond Counsel"** means Independent Counsel having nationally recognized standing in matters relating to the tax-exempt nature of interest on obligations issued by or on behalf of states or political subdivisions thereof.

**"Bond Insurer"** means Financial Guaranty Insurance Company, a New York stock insurance company, or any successor thereto.

**"Business Day"** means any day other than (1) a Saturday, Sunday or day upon which commercial banks in Birmingham, Alabama, or New York, New York, are authorized or required to be closed, and (2) for purposes of payments and other actions relating to Parity Securities secured by a Letter of Credit, a day upon which commercial banks in the city in which the office of the Qualified Bank at which demands for payment under such Letter of Credit are to be presented is located are authorized to be closed.

**"Code"** means the Internal Revenue Code of 1986, as amended, or successor federal tax law at the time in force and effect.

**"Counsel"** means any attorney duly admitted to practice before the highest court of any state of the United States of America or the District of Columbia (including any full time employee of the County who is so admitted to practice), it being understood that Counsel may also mean a firm of attorneys whose members are so admitted to practice.

**"County"** means the party of the first part hereto and, subject to the provisions of Section 12.6 hereof, includes its successors and assigns and any political subdivision of the State of Alabama resulting from or surviving any consolidation or merger to which it or its successors may be a party.

**"Debt Service Fund"** means the Jefferson County Sewer System Debt Service Fund established under Section 11.2 hereof.

**"Depreciation Fund"** means the Jefferson County Sewer System Funded Depreciation Fund established under Section 11.5 hereof.

**"Eligible Bank Obligations"** means demand and time deposits (whether or not interest-bearing and whether or not evidenced by certificates of deposit) in banks and acceptances by banks, provided that the banks obligated with respect to such deposits or acceptances, as the case may be, are organized under the laws of the United States of America or any state thereof and have, at the time any moneys are invested in such deposits or acceptances pursuant to the provisions of the Indenture, combined capital, surplus and undivided profits of not less than \$50,000,000; provided that the bank obligated with respect to any such deposit or acceptance shall continuously secure such deposit or acceptance, to the extent not insured by the Federal Deposit Insurance Corporation (or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation), by depositing with an independent third party, as collateral security therefor, Federal Obligations having a market value (exclusive of accrued interest) not less than the amount of the deposit or acceptance being secured.

**"Eligible Investments"** means any of the following: (i) Federal Obligations; (ii) Eligible Bank Obligations; (iii) obligations issued by any state of the United States of America or political subdivision or instrumentality thereof that are fully payable, as to principal, premium (if any) and interest, from payments of principal of or interest on any Federal Obligations held in an irrevocable trust, and that are rated not less favorably than AAA by S&P and Aaa by Moody's; (iv) any share or other investment unit representing a beneficial interest in an investment company or investment trust which is registered under the Investment Company Act of 1940, as from time to time amended (or successor provision of federal law), provided that the investment portfolio of such investment company or investment trust consists exclusively of obligations or securities that would independently qualify as Eligible Investments if directly acquired by the County; (v) to the extent at the time permitted by applicable law, either of the following: (A) any repurchase agreement or collateralized investment agreement issued or guaranteed by any financial institution which has a long-term rating of at least A- by S&P or A3 by Moody's, provided that (1) the obligations or securities subject to any such agreement shall be of the kind described in clauses (i), (ii) and (iii) of this definition, (2) no transfer of moneys shall be made by the County to invest in any such agreement unless the County obtains a security interest in all obligations and securities covered by such agreement that shall be perfected, prior to or simultaneously with the transfer of such moneys, through the physical delivery of such obligations and securities to the County or to an independent third party, and (3) such obligations and securities shall be supplemented by additional collateral from time to time to the extent required to continuously maintain collateral having an aggregate market value (exclusive of accrued interest) that is not less than the amount invested pursuant to such agreement; or (B) any investment agreement issued or guaranteed by any financial institution



which has a long-term rating of at least AA- by S&P or AA3 by Moody's; and (vi) any other investments at the time permitted by applicable law.

**"Event of Default"** means an "Event of Default" as specified in Section 13.1 hereof.

**"Federal Obligations"** means (i) any direct general obligations of the United States of America, (ii) obligations the payment of the principal of and the interest on which is unconditionally and irrevocably guaranteed by, or entitled to the full faith and credit of, the United States of America, and (iii) Treasury Receipts.

**"Fiscal Year"** means any twelve month period ending on September 30 or any other period of twelve consecutive calendar months that may hereafter be adopted as the fiscal year of the County.

**"Fitch"** means Fitch Investors Service, L.P., and any successor thereto.

**"fully paid", "payment in full",** or any similar expression with respect to the Indenture Indebtedness, means that the entire Indenture Indebtedness has been paid in full or duly provided for pursuant to Section 16.1 hereof and that the lien of the Indenture has been cancelled, satisfied and discharged in accordance with the provisions of said Section 16.1 hereof.

**"Governing Body"** means the County Commission of the County or any other governing body of the County, howsoever constituted, that may succeed to its function as such governing body.

**"Holder"**, when used in conjunction with a Parity Security, means the Person in whose name such Parity Security is registered on the registry books of the Trustee pertaining to the Parity Securities.

**"Improvement Costs"** means the costs of acquiring, constructing, installing and making any System Improvements (including the purchase of all easements, rights of way and land, and all engineering, legal, financing and other expenses incidental to the acquisition, construction, installation and making of such System Improvements).

**"Indenture"** means this Trust Indenture, as supplemented and amended by any Supplemental Indenture executed by the County and the Trustee in accordance with the applicable provisions of Article XV hereof.

**"Indenture Funds"** means the Debt Service Fund, the Rate Stabilization Fund, the Depreciation Fund, the Reserve Fund and the Redemption Fund.

**"Indenture Indebtedness"** means all indebtedness of the County at the time secured by the Indenture, including, without limitation, all principal of and interest and premium (if any) on the Parity Securities, and all reasonable and proper fees, charges and disbursements of the Trustee for services performed under the Indenture.

**"Independent Accountant"** means a certified public accountant or a firm of certified public accountants that has no continuing employment or business relationship or other connection with the County which, in the opinion of the Trustee, might compromise or interfere with the independent judgment of such accountant or firm of accountants in the performance of any services to be performed hereunder as an Independent Accountant, or the State Examiner of Public Accounts of the State of Alabama or any successor to his duties.

**"Independent Counsel"** means Counsel having no continuing employment or business relationship or other connection with the County which, in the opinion of the Trustee, might compromise or interfere with the independent judgment of such Counsel in the performance of any services to be performed hereunder as Independent Counsel.

**"Independent Engineer"** means an engineer or engineering firm licensed to engage in the independent practice of engineering under the laws of the State of Alabama (i) that has no continuing employment or business relationship or other connection with the County which, in the opinion of the Trustee, might compromise or interfere with the independent judgment of such engineer or engineering firm in the performance of any services to be performed hereunder as an Independent Engineer and (ii) that is otherwise acceptable to the Trustee and the Bond Insurer for the purpose to be served hereunder by such Independent Engineer. ----

**"Independent Investment Adviser"** means a municipal securities dealer having no continuing employment or business relationship or other connection with the County which, in the opinion of the Trustee, might compromise or interfere with the independent judgment of such securities dealer in the performance of any services to be performed hereunder as Independent Investment Adviser.

**"Insurance Policy"** means the municipal bond new issue insurance policy issued by the Bond Insurer that guarantees payment of principal of and interest on the Series 1997 Warrants.

**"Interest Payment Date"** means (i) with respect to the Series 1997 Warrants, August 1, 1997, and each February 1 and August 1 thereafter, (ii) with respect to the Series 1997-C Warrants, August 15, 1997, and each February 15 and August 15 thereafter, and (iii) with respect to any Additional Parity Securities, any date on which interest on such securities is due and payable.

**"Issuance Cost Account"** means the Series 1997 Warrants Issuance Cost Account established under Section 11.12 hereof.

**"Issuance Costs"** means the reasonable costs and expenses of issuing and selling the Series 1997 Warrants and Series 1997-C Warrants, including, without limitation, the fees and expenses of Bond Counsel to the County, the acceptance fee of the Trustee, the fees of any Rating Agency rating the Series 1997 Warrants, bond insurance premiums, accounting fees, financial advisory fees, underwriters' commissions and discounts, the costs of printing the Official Statement for the Series 1997 Warrants, and other usual and customary expenses.

**"Letter of Credit"** means an irrevocable and unconditional letter of credit, a standby purchase agreement, a line of credit or any other similar credit arrangement issued by a Qualified Bank to secure payment of any Parity Securities or to satisfy all or a portion of the Reserve Fund Requirement.

**"Letter of Credit Agreement"** means an agreement between the County and a Qualified Bank pursuant to which the Qualified Bank agrees to issue a Letter of Credit and which sets forth the repayment obligation of the County to the Qualified Bank on account of any payment under the Letter of Credit.

**"Maximum Annual Debt Service"** means the maximum amount payable in a Fiscal Year as principal of and interest on the Parity Securities then outstanding and any Additional Parity Securities proposed to be issued, subject to the following assumptions and adjustments:

(1) that the principal amount of any such securities required by the terms thereof to be redeemed or prepaid during any Fiscal Year shall, for purposes of this definition, be considered as maturing in the Fiscal Year during which such redemption or prepayment is required and not in the Fiscal Year in which their stated maturity or due date occurs;

(2) for purposes of determining the amounts of principal and interest due in any Fiscal Year on any Parity Securities that constitute Tender Indebtedness, the options or obligations of the owners of such Parity Securities to tender the same for purchase or payment prior to their stated maturity or maturities shall be treated as a principal maturity occurring on the first date on which owners of such Parity Securities may or are required to tender such Parity Securities for purchase or payment, except that any such option or obligation to tender Parity Securities shall be ignored and not treated as a principal maturity, and such Parity Securities shall be deemed to mature in accordance with their stated maturity schedule, if (i) such Parity Securities are rated in one of the two highest long-term rating categories (without reference to gradations such as "plus" or "minus") by at least two Rating Agencies or such Parity Securities are rated in the highest short-term, note or commercial paper rating categories (without reference to gradations such as "plus" or "minus") by at least two Rating Agencies, and (ii) the obligation, if any, the County may have to the issuer of a Letter of Credit that secures such Parity Securities shall either be subordinated to the obligation of the County on the Parity Securities or be incurred under the conditions and satisfy the tests for the issuance of Additional Parity Securities set forth in the Indenture;

(3) the interest rate on any outstanding or proposed Variable Rate Securities subsequent to the date of calculation shall be assumed to be the lowest of (A) the maximum rate of interest that may be applicable to such Parity Securities, under the provisions thereof, (B) for so long as any hedging agreement that establishes a cap rate for such Parity Securities is in effect, such cap rate, and (C) the highest of (i) the actual interest rate on the date of calculation, or if the Variable Rate



Securities in question are not yet outstanding, the initial rate (if established and binding), (ii) if the Variable Rate Securities in question have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) (x) if interest on the Variable Rate Securities in question is excludable from gross income under the applicable provisions of the Code, the most recently published Bond Buyer 25 Bond Revenue Index (or comparable index if no longer published) plus fifty (50) basis points, or (y) if interest on such Variable Rate Securities is not so excludable, the interest rate on direct U.S. Treasury obligations with comparable maturities plus fifty (50) basis points;

(4) the debt service payable with respect to any Parity Securities for which the County has entered into a Qualified Swap pursuant to which the County has agreed to make payments calculated by reference to a fixed rate of interest shall be calculated as if the Parity Securities bore interest at such fixed rate during the term of such Qualified Swap;

(5) the debt service payable with respect to any Parity Securities for which the County has entered into a Qualified Swap pursuant to which the County has agreed to make payments calculated by reference to variable interest rates shall be calculated as if the Parity Securities in question bore interest, during the term of such Qualified Swap, at a rate equal to the lowest of (A) for so long as any hedging agreement that establishes a cap rate with respect to such Qualified Swap remains in effect, such cap rate, or (B) the highest of (i) the actual rate of such Qualified Swap on the date of calculation, or if such Qualified Swap is not yet in effect, the initial rate (if established and binding), (ii) if the Qualified Swap has been in effect for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) (x) if interest on the Variable Rate Securities in question is excludable from gross income under the applicable provisions of the Code, the most recently published Bond Buyer 25 Bond Revenue Index (or comparable index if no longer published) plus fifty (50) basis points, or (y) if interest on such Variable Rate Securities is not so excludable, the interest rate on direct U.S. Treasury obligations with comparable maturities plus fifty (50) basis points;

(6) there shall be excluded any principal of or interest on any Parity Securities to the extent there are available and held in escrow or under a trust agreement (i) moneys sufficient to pay such principal or interest, (ii) Permitted Defeasance Obligations which, if the principal thereof and the interest thereon are paid according to their tenor, will produce moneys sufficient to pay such principal of interest, or (iii) both moneys and such Permitted Defeasance Obligations which together will produce funds sufficient to pay such principal or interest; and

(7) the County may assume that all or any portion of outstanding Parity Securities that are subject to optional redemption provisions will be redeemed in one or more installments that are consistent with such provisions and may adjust the



expected payment schedule with respect to such Parity Securities to reflect such assumed redemptions.

In any case where, for purposes of determining Maximum Annual Debt Service, a portion of the principal of any Parity Securities is to be excluded, there shall also be excluded interest on the principal so excluded.

**"Moody's"** means Moody's Investors Service and any successor thereto.

**"Net Insurance Proceeds"** means the total insurance proceeds recovered by the County and the Trustee on account of any damage to or destruction of the System or any part thereof, less all expenses (including attorneys' fees and any extraordinary expenses of the Trustee) incurred in the collection of such proceeds.

**"Net Revenues Available for Debt Service"** means, for any period, the difference between (A) the sum of (i) the total amount of System Revenues accrued during such period, and (ii) the amount of interest earned during such period on moneys held in those of the Indenture Funds other than the Rate Stabilization Fund (to the extent that such interest is not taken into account pursuant to the preceding clause (i)) and (B) the total amount of Operating Expenses incurred during such period (determined in accordance with generally accepted accounting principles).

**"Operating Expenses"** means, for the applicable period or periods, (a) the reasonable and necessary expenses of efficiently and economically administering and operating the System, including, without limitation, the costs of all items of labor, materials, supplies, equipment (other than equipment chargeable to fixed capital account), premiums on insurance policies and fidelity bonds maintained with respect to the System (including casualty, liability and any other types of insurance), fees for engineers, attorneys and accountants (except where such fees are chargeable to fixed capital account) and all other items, except depreciation, amortization, interest and payments made pursuant to Qualified Swaps, that by generally accepted accounting principles are properly chargeable to expenses of administration and operation and are not characterized as extraordinary items, (b) the expenses of maintaining the System in good repair and in good operating condition, but not including items that by generally accepted accounting principles are properly chargeable to fixed capital account, and (c) the fees and charges of the Trustee. Payments or transfers of Sewer Revenues into the General Fund of the County shall constitute payments of Operating Expenses if and to the extent that the services or benefits for which such payments or transfers are made are such that payments to a Person other than the County for such services or benefits would constitute payments of Operating Expenses.

**"outstanding"**, when used with reference to any of the Parity Securities, means, at the date as of which the amount of such Parity Securities outstanding is to be determined, all such Parity Securities which have been theretofore authenticated and delivered by the Trustee under the Indenture, except (i) those of such Parity Securities purchased for retirement which have been delivered to and cancelled by the Trustee, (ii) those of such Parity Securities cancelled by the Trustee because of payment at or after their respective maturities or redemption prior to their respective maturities, (iii) those of such Parity Securities for the payment or redemption of which

provision shall have been made with the Trustee as provided in Section 16.1 hereof, and (iv) those of such Parity Securities in exchange for which, or in lieu of which, other Parity Securities have been authenticated and delivered hereunder. In determining whether the Holders of a requisite aggregate principal amount of outstanding Parity Securities have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Indenture, Parity Securities which are owned by the County shall be disregarded and deemed not to be outstanding hereunder for the purpose of any such determination.

**"Parity Securities"** means the Series 1997 Warrants, the Series 1997-C Warrants and any Additional Parity Securities at the time outstanding.

**"Parity Securityholder"** means the Holder of a Parity Security.

**"Paying Agent"** means (i) with respect to the Series 1997 Warrants and the Series 1997-C Warrants, the Trustee, and (ii) with respect to any series of Additional Parity Securities, the paying agent designated in the Supplemental Indenture providing for the issuance of such Additional Parity Securities.

**"Permitted Defeasance Obligations"** means any combination of (i) Federal Obligations and (ii) obligations issued by any state of the United States of America or political subdivision or instrumentality thereof that bear interest exempt from federal income taxation, that are fully payable, as to principal, premium (if any) and interest, from payments of principal of or interest on any Federal Obligations held in an irrevocable trust, and that are rated not less favorably than AAA by S&P or Aaa by Moody's.

**"Permitted Encumbrances"** means, as of any particular time, any of the following: (i) inchoate mechanic's, materialmen's, supplier's, vendor's and other similar liens; (ii) liens, encumbrances or pledges subordinate to the lien or pledge imposed hereby; and (iii) such other minor defects, irregularities, encumbrances and clouds on title as customarily exist with respect to properties of the size and character as those comprising the System and that do not in the aggregate materially impair the use of such properties in the operation of the System.

**"Person"** means any natural person, corporation, partnership, trust, joint venture, government or governmental body, political subdivision or other legal entity as in the context may be possible or appropriate.

**"Pledged Revenues"** means those of the System Revenues that are pledged, pursuant to Section 2.1 hereof, to secure the payment of the Parity Securities.

**"Prior Years' Surplus"** means, with respect to any particular Fiscal Year, the aggregate amount on deposit in the Rate Stabilization Fund and the Depreciation Fund on the first day of such Fiscal Year.

**"Qualified Bank"** means a state or national bank or trust company, or a foreign bank with a domestic branch or agency, which is organized and in good standing under the laws of the United

States or any state thereof, which has a capital and surplus of \$50,000,000 or more and which has a short-term debt rating in the highest category from at least two Rating Agencies.

**"Qualified Swap"** means, with respect to a series of Parity Securities or any portion thereof, any financial arrangement (i) that is entered into by the County with an entity that is a Qualified Swap Provider at the time of the execution and delivery of the documents governing such arrangement; (ii) that provides (a) that the County shall pay to such entity an amount based on the interest accruing at a fixed rate on a notional amount equal to all or a portion of the principal amount of the outstanding Parity Securities of such series, and that such entity shall pay to the County an amount based on the interest accruing on the same notional amount, at either a variable rate of interest or a fixed rate of interest computed according to a formula set forth in such arrangement (which need not be the same as the actual rate of interest borne by the Parity Securities), or that one shall pay to the other any net amount due under such arrangement, or (b) that the County shall pay to such entity an amount based on the interest accruing on a notional amount equal to all or a portion of the principal amount of the outstanding Parity Securities of such series at a variable rate of interest as set forth in the arrangement and that such entity shall pay to the County an amount based on interest accruing on the same notional amount at an agreed fixed rate, or that one shall pay to the other any net amount due under such arrangement; and (iii) which has been designated in writing to the Trustee by the County as a Qualified Swap with respect to any of the Parity Securities.

**"Qualified Swap Provider"** means an entity whose senior long term debt obligations, other senior unsecured long-term obligations or claims paying ability, or whose payment obligations under a Qualified Swap are guaranteed by an entity whose senior long-term debt obligations, other senior unsecured long-term obligations or claims paying ability, are rated (at the time the subject Qualified Swap is entered into) at least A- by S&P and at least A3 by Moody's.

**"Rate Stabilization Fund"** means the Jefferson County Sewer System Rate Stabilization Fund established under Section 11.4 hereof.

**"Rate Stabilization Fund Requirement"** means, as of the date of any determination thereof, seventy-five percent (75%) of the Maximum Annual Debt Service on the then outstanding Parity Securities.

**"Rating Agency"** means Moody's, S&P, Fitch or any other nationally recognized securities rating agency.

**"Record Date"** means, with respect to any Interest Payment Date, the fifteenth day of the month immediately preceding such Interest Payment Date.

**"Redemption Fund"** means the Jefferson County Sewer System Redemption Fund established under Section 11.6 hereof.

**"Reserve Fund"** means the Jefferson County Sewer System Debt Service Reserve Fund established under Section 11.3 hereof.



**"Reserve Fund Requirement"** means, as of the date of any determination thereof, the lesser of (a) 125% of the average annual debt service on all Parity Securities at the time outstanding and secured by the Reserve Fund, (b) the maximum annual debt service on all Parity Securities at the time outstanding and secured by the Reserve Fund, or (c) an amount equal to the aggregate of 10% of the original principal amount (or, in the case of any series of Parity Securities sold with original issue discount in an amount greater than 2% of its original principal amount, the issue price) of each series of Parity Securities at the time outstanding and secured by the Reserve Fund. Any calculation of average annual debt service or maximum annual debt service for the purpose of determining the applicable Reserve Fund Requirement shall be made in accordance with the requirements and limitations imposed by the provisions of the Code and the regulations promulgated thereunder that pertain to reasonably required reserve or replacement funds.

**"Resolution"** means a resolution duly adopted by the Governing Body.

**"Revenue Account"** means the Jefferson County Sewer System Revenue Account established under Section 11.1 hereof.

**"S&P"** means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

**"SRF Warrant"** means the County's Sewer Revenue Warrant dated August 31, 1992, that was issued to the Alabama Water Pollution Control Authority, which warrant was issued originally in the principal amount of \$58,340,000 and is now outstanding in the principal amount of \$52,880,000.

**"Series 1992 Warrants"** means the County's Sewer Revenue Warrants, Series 1992, which warrants were originally issued in the aggregate principal amount of \$53,880,000 and are now outstanding in the aggregate principal amount of \$50,780,000.

**"Series 1993 Warrants"** means the County's Sewer Revenue Warrants, Series 1993, which warrants were originally issued in the aggregate principal amount of \$46,005,000 and are now outstanding in the aggregate principal amount of \$41,800,000.

**"Series 1995-A Warrants"** means the County's Sewer Revenue Warrants, Series 1995-A, originally issued and now outstanding in the aggregate principal amount of \$130,000,000.

**"Series 1997 Warrants"** means the Series 1997-A Warrants and the Series 1997-B Warrants.

**"Series 1997-A Warrants"** means those certain Sewer Revenue Refunding Warrants, Series 1997-A, authorized to be issued pursuant to Article VII hereof in an aggregate principal amount of \$211,040,000.

**"Series 1997-B Warrants"** means those certain Taxable Sewer Revenue Refunding Warrants, Series 1997-B, authorized to be issued pursuant to Article VIII hereof in an aggregate principal amount of \$48,020,000.

**"Series 1997-C Warrants"** means those certain Taxable Sewer Revenue Refunding Warrants, Series 1997-C, authorized to be issued pursuant to Article IX hereof in an aggregate principal amount of \$52,880,000.

**"Sewer Tax"** means that certain ad valorem tax levied by the County on an annual basis for the benefit of the System pursuant to Act No. 716 of the 1900-01 Session of the General Assembly of Alabama.

**"Supplemental Indenture"** means an agreement supplementing or amending the Indenture.

**"System"** means the entire sanitary sewer system owned by the County and all additions thereto and replacements thereof, consisting of mains, laterals, collectors, transmission mains, outfalls, pumping stations, sewage disposal plants, sewage treatment plants, and all properties, rights, easements and franchises appurtenant thereto, whether any of the said properties are now owned by the County or may be hereafter acquired by it.

**"System Improvements"** means (i) any capital improvements, extensions or additions to the System, (ii) any other capital improvements undertaken by the County as a consequence of its ownership and operation of the System, or (iii) any land or interest therein acquired as an addition to the System or as a consequence of the County's ownership and operation of the System.

**"System Revenues"** means the revenues derived from the Sewer Tax and all revenues, receipts, income and other moneys hereafter received by or on behalf of the County from whatever source derived from the operation of the System, including, without limitation, the fees, deposits and charges paid by users of the System and interest earnings on the Indenture Funds (other than the Rate Stabilization Fund) and any other funds held by the County or its agents that are attributable to or traceable from moneys derived from the operation of the System, but excluding, however, any federal or state grants to the County in respect of the System and any income derived from such grants.

**"Tender Indebtedness"** means any Parity Securities that are payable, at the option of the holder thereof, prior to their stated maturity or due date, or that the County (or an agent thereof) is required, at the option of such holder, to purchase prior to their stated maturity or due date.

**"Treasury Receipts"** means custodial receipts evidencing ownership in future principal or interest payments, or both, with respect to United States Treasury obligations that have been deposited with a custodian pursuant to a custody agreement which provides for the United States Treasury obligations underlying such custodial receipts to be held in a separate account and for all payments of principal and interest received by such custodian with respect to such underlying obligations to be immediately paid to the holders of such custodial receipts in accordance with their respective ownership interests in such underlying obligations, provided that (i) the custodian issuing

such custodial receipts shall be a bank that is acceptable to the Trustee, that is organized under the laws of the United States of America or any state thereof, and that, at the time of the issuance of such custodial receipts, shall have capital, surplus and undivided profits in excess of \$100,000,000 and (ii) the custody agreement pursuant to which such custodial receipts are issued shall be acceptable to Bond Counsel.

**"Trust Estate"** means all properties, moneys, rights and interests that were granted, conveyed, assigned, transferred and pledged to and with the Trustee in Section 2.1 hereof or that are in any way subject to the lien of the Indenture.

**"Trustee"** means the party of the second part hereto and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

**"Variable Rate Security"** means any Parity Security that bears interest at a rate that is subject to change prior to the maturity of such security to one or more other interest rates that cannot be determined in advance.

Section 1.2 **Use of Phrases.** "Herein", "hereby", "hereunder", "hereof", "hereinbefore", "hereinafter", and other equivalent words refer to the Indenture as an entirety and not solely to the particular portion thereof in which any such word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders. Any percentage or fractional amount of all the Parity Securities or of the Parity Securities of any series, specified herein for any purpose, is to be figured on the aggregate principal amount of all the Parity Securities or of the Parity Securities of such series, as the case may be, then outstanding.

## ARTICLE II

### GRANTING CLAUSES

Section 2.1 **Granting Clauses.** In order to secure the payment of the principal of and the interest and premium (if any) on the Parity Securities and the performance and observance of the covenants and conditions herein and therein contained for the benefit of the Parity Securityholders, and in consideration of (i) the purchase and acceptance of the Parity Securities by the Holders thereof, and (ii) the acceptance by the Trustee of the trusts herein provided, the County does hereby grant, bargain, sell and convey, assign, transfer and pledge to and with the Trustee the following described properties, interests and rights of the County, whether the same are now owned by it or may be hereafter acquired: